

SUPPORT FOR THE AMENDMENT

Claims 12-17 and 21 are amended in a non-narrowing manner for clarity and to correct typographical errors in accordance with the Examiner's suggestions. Claims 28-30 are new. Support for the newly added claims is found in the original claims. The specification has been amended in accordance with the Examiner's suggestion to correct an obvious typographical error. Therefore, no new matter is believed to be introduced by the above amendment.

REMARKS

Claims 1-30 are pending. Favorable reconsideration is respectfully requested.

At the outset, Applicants thank Examiner Nguyen for the helpful and courteous discussion of the present application on August 26, 2002, and for indicating that the remarks below and the attached references would favorably advance prosecution of the present application. Further, Applicants thank Examiner Nguyen for indicating in the outstanding Office Action that Claims 4-11 and 18 are allowable.

The rejection of Claims 1-3, 12-17, 19-24 and 26 under 35 U.S.C. § 112, first paragraph, is traversed below.

The contention that the present specification fails to enable the above-mentioned claims because "the specification, while being enabling for a cubic gel comprising a mixture of two specific compounds at specific percent ranges, does not reasonably provide enablement for any cubic gel" is incorrect (see page 4, lines 1-9, of the Office Action). As discussed during the above-mentioned discussion, the Office provides no evidence to support

the above conclusion. Therefore, the Office merely states a conclusion without providing any support whatsoever.

As discussed during the above-mentioned discussion, Applicants respectfully disagree with the Office's above conclusion on the basis that Applicants have provided a clear definition of "cubic gel" in the specification (see page 3, lines 19-29, of the specification). More specifically, Applicants have incorporated by reference the disclosures of Luzatti (1968), Mariani et al. (1988), and "La Recherche" (1992) at page 3, lines 25-26 of the specification, which provide full support for the entire scope of the above-mentioned definition of "cubic gel". Further, Applicants have provided a method of testing the cubic gel particles as defined above in order to confirm their ability to protect keratin materials from the effects of pollution (see the examples from page 14, line 27, to page 20, line 22, of the specification). Therefore, any person reading the present specification can (1) readily understand the term "cubic gel" as defined at page 3, lines 19-29, (2) understand the disclosures of the references incorporated by reference therein, (3) produce a "cubic gel" within this definition, and (4) test the ability of a "cubic gel" to protect keratin materials from the effects of pollution. As requested by the Examiner during the discussion and for her convenience, copies of the relevant pages of Luzatti (1968), Mariani et al. (1988), and "La Recherche" (1992) are attached in support of Applicants' position.

In light of the above, there is no basis for the Office's conclusion that the present specification does not provide ample enablement for a method of protecting keratin materials from the harmful effects of pollution by topically applying a composition containing cubic gel particles to the keratin materials. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 12-17 under 35 U.S.C. § 112, second paragraph, is believed to be obviated by the above amendment. Claims 12-17 are amended in a non-narrowing manner to replace the phrase "capable of forming" with --forms-- or --which forms--. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of Claims 24 and 26 under 35 U.S.C. § 112, second paragraph, on the basis that the term "medium" is vague is traversed below.

Claim 24 recites the expression "physiologically acceptable medium" and Claim 26 is apparently rejected because it is dependent from Claim 24. The Office apparently contends that the expression "physiologically acceptable medium" is vague. Applicants respectfully disagree in light of the clear definition of "physiologically acceptable medium" provided at page 12, lines 1-10, of the present specification. This definition clearly defines "physiologically acceptable medium" as recited in Claim 24. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The objection to the specification is believed to be obviated by the above amendment and the remarks below. As suggested by the Office in the outstanding Office Action, Applicants have amended page 8, line 18, to remove the term "last" and replace it with the term --least--. Further, the Office contends that there is no recitation of "iv" and "v" on page 11 of the specification. The Office's attention is directed to page 11, lines 6-7, of the present specification, where "iv" and "v" are specified. Further, Claim 21 has been amended in a non-narrowing manner to correct an obvious typographical error. More specifically, the recitation of "N-aryl" is replaced with --N-^uaryl-- which is supported at page 11, line 2, of the specification. Accordingly, withdrawal of these grounds of objection is respectfully requested.

Applicants respectfully submit that the present application is now in condition for allowance. Favorable reconsideration is respectfully requested. Should anything further be required to place the application in condition for allowance, the Office is requested to contact the undersigned by telephone.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER AND NEUSTADT, P.C.



Richard L. Treanor
Registration No. 36,379
Attorney of Record



22850

(703) 413-3000
(703) 413-2220 (fax)
NFO:RLT:TWB/bwt
I:\atty\Twb\208593us-am.wpd

Marked-Up Copy
Serial No: 09/875,993
Amendment Filed on: HERewith

IN THE SPECIFICATION

Please replace the paragraph at page 8, lines 17-20, as follows:

According to a second embodiment of the invention, the cubic gel particles are formed from a mixture of at [last] least two amphiphilic compounds, one of the amphiphilic compounds being capable of forming a lamellar phase in the presence of water, and the other being capable of forming an inverse hexagonal phase in the presence of water.

IN THE CLAIMS

Please amend the claims as shown on the attached marked-up copy to read as follows:

--12. (Amended) The method of claim 1, wherein the cubic gel particles are formed from a mixture of at least two amphiphilic compounds, wherein one of the amphiphilic compounds [being capable of forming] forms a lamellar phase in the presence of water, and the other [being capable of forming] forms an inverse hexagonal phase in the presence of water.

13. (Amended) The method of claim 12, wherein the amphiphilic compound [capable of forming] which forms a lamellar phase is selected from the group consisting of diglycerol monoesters.

14. (Amended) The method of claim 12, wherein the amphiphilic compound [capable of forming] which forms an inverse hexagonal phase is selected from the group consisting of diglycerol mono-, di- or triesters and aminopolyol carbamates, and mixtures thereof.

15. (Amended) The method of claim 12, wherein the amphiphilic compound [capable of forming] which forms a lamellar phase is selected from the group consisting of diglycerol isostearate and diglycerol monooleate, and mixtures thereof.

16. (Amended) The method of claim 12, wherein the amphiphilic compound [capable of forming] which forms an inverse hexagonal phase is selected from the group consisting of diglycerol 2-decyltetradecanoate, diglycerol di/trioleate, 3-N-(2-decyltetradecyloxycarbonyl)aminol, 2-propanediol and N-2-dodecylhexadecyloxycarbonyl-N-methyl-D-glucamine, and mixtures thereof.

17. (Amended) The method of claim 12, wherein the mixture of the two amphiphilic compounds consists of from 10% to 90% by weight of the amphiphilic compound [capable of forming] which forms a lamellar phase and from 10% to 90% by weight of the amphiphilic compound [capable of forming] which forms an inverse hexagonal phase, relative to the total weight of the mixture.

21. (Amended) The method of Claim 20, wherein said water-insoluble ionic amphiphilic lipid is at least one selected from the group consisting of:

(i) phospholipids,

- (ii) phosphoric esters of fatty acids,
- (iii) water-insoluble [N-aryl] N-acyl derivatives of glutamic acid and salts thereof,
- (iv) sodium cetyl sulphate,
- (v) sodium cocoylmonoglyceride sulphate, and
- (vi) water-insoluble quaternary ammonium derivatives.--

--Claims 28-30 are new.--